

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**January 6, 2004**

**IN RE:**

**PETITION FOR EXPEDITED REVIEW OF  
GROWTH CODE DENIAL BY THE  
NUMBER POOLING ADMINISTRATOR  
RELATING TO DANA CORPORATION**

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**DOCKET NO.  
03-00591**

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**ORDER APPROVING PETITION FOR  
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL  
AND REVERSING CENTRAL OFFICE CODE DENIAL**

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This matter came before Chairman Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 8, 2003 for consideration of the *Petition for Expedited Review of Growth Code Denial by the Number Pooling Administrator Relating to Dana Corporation* filed by BellSouth Telecommunications, Inc. ("BellSouth") on November 7, 2003.

**BACKGROUND**

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers."<sup>1</sup> Among other things, the FCC

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<sup>1</sup> *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Report and Order and Further Notice of Proposed Rule Making*) 15 FCC Rcd. 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter "*First Report and Order*"); see also 47 U.S.C. § 251(e)(1) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis.").

adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.<sup>2</sup> Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission” for a decision as to whether to allocate the numbers.<sup>3</sup>

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.<sup>4</sup> NeuStar, which was also serving as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. In order to facilitate efficient telecommunications services in West Tennessee outside of the greater Memphis area, the 731 numbering plan area (“NPA”) was created in September of 2001 to alleviate the strained capacity of the 901 NPA. Telephone number conservation was implemented in the 731 NPA on September 15, 2003 with the start of thousand-block pooling. Thus, Telecommunications service providers participating in number pooling in the 731 area are required to submit their requests for additional numbering resources to the Pooling Administrator. The projected exhaust date for the 731 NPA is the First Quarter of 2016.

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<sup>2</sup> See *First Report and Order*, ¶¶ 40-41, 84, 97-98.

<sup>3</sup> See 47 C.F.R. § 52.15(a); see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator).

<sup>4</sup> *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 FCC Rcd. 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter “*Third Report and Order*”); see also 47 C.F.R. § 52.15(a).

On September 26, 2003, BellSouth submitted a Central Office Code (NXX) Assignment Request to NeuStar to be assigned an NXX code necessary to meet the demands of its customer, Dana Corporation, an automotive parts supplier with operations in McKenzie, Tennessee. BellSouth's application was for a growth code in the 731 NPA to fulfill Dana Corporation's need for a 100 block of sequential numbers in the 2100 to 2199 block range in order to implement a new Direct Inward Dial (DID) telephone system. BellSouth has not been able to fulfill this customer's request due to insufficient available numbering resources in the servicing switch within the McKenzie Rate Center.

NANPA, citing BellSouth's failure to meet its NXX Assignment Guidelines, denied BellSouth's request on October 9, 2003. The guidelines require that a rate center must have a 70% utilization rate and that its estimated exhaust date not exceed six months. BellSouth could not meet either of these guidelines because the McKenzie Rate Center has a 63% utilization rate and a thirty month projected exhaust date. Presently, Dana Corporation has 50 access lines in service and BellSouth is unable to provide this customer's request through its switch due to the insufficient number resources.

On November 7, 2003, BellSouth filed with the Authority its *Petition for Expedited Review of Growth Code Denial*. BellSouth asserts that its inability to supply Dana Corporation with the requested numbers prevents BellSouth from providing the quality of service its customers expect.<sup>5</sup> BellSouth requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Review by the TRA of the NeuStar Administration's denial of BellSouth's application is authorized by the FCC.<sup>6</sup> According to the FCC,

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<sup>5</sup> *Id.* at 6-7.

<sup>6</sup> *Third Report and Order*, ¶ 61; *see also* 47 C.F.R. § 54.15(g)(3)(iv).

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.<sup>7</sup>

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.<sup>8</sup>

At a regularly scheduled Authority Conference held on December 8, 2003, the voting panel assigned to this docket considered BellSouth's *Petition for Expedited Review of Central Office Code Denial*. After considering the evidentiary record and policy goals required by Tenn. Code Ann. § 65-4-123 regarding this agency's responsibility to foster competition in the telecommunications industry,<sup>9</sup> the panel voted unanimously to approve BellSouth's request for expedited review and reverse the Pooling Administrator's denial of BellSouth's request for additional numbering resources.

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<sup>7</sup> *Third Report and Order*, ¶ 61.

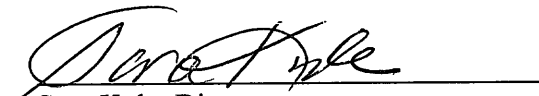
<sup>8</sup> See, e.g., *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 FCC Rcd. 15,842, 2001 WL 964979, ¶ 8 (Aug. 24, 2001) ("[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis; that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the state commissions not unduly favor one telecommunications technology over another."); see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237 (*Public Notice*) 16 F.C.C.R. 18,502, 2001 WL 1222428 (Oct. 15, 2001).

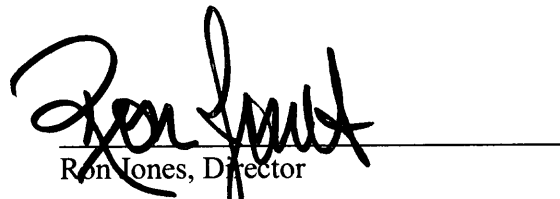
<sup>9</sup> See Tenn. Code Ann. § 65-4-123.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition for Expedited Review of Growth Code Denial by the Number Pooling Administrator Relating to Dana Corporation* filed by BellSouth Telecommunications, Inc. is granted.
2. The North American Numbering Plan Administration's decision to deny BellSouth's request for additional numbering resources is reversed as stated herein.
3. The North American Numbering Plan Administration is ordered to assign a block of 1,000 numbers to BellSouth for the McKenzie Rate Center.

  
Deborah Taylor Tate, Chairman

  
Sara Kyle, Director

  
Ron Jones, Director